

THE TORN NOTE EXCLUDED.

Captain Epps on the Stand
for Two Hours.

EPPS ON THE SCRATCHED HAND.

A Man Who Heard the Cries
of a Woman.

His Honor Judge Atkins yesterday morning in the Cluverius (Kla'viers) case decided that "the torn note" was inadmissible here as evidence. The little colored boy who brought to the American Hotel a note (believed to have been written and sent by prisoner), to which this was an answer, has never been found. So the Commonwealth was not able to connect the prisoner with "the torn note"; nor have they ever been able to show that he had any knowledge of its existence. Hence it was excluded, and the Commonwealth thereby loses a good point.

The witnesses examined yesterday were: Aaron Watkins, a colored man who alleges that he heard on the night of the murder a woman's cries proceeding from the direction of the reservoir; Dr. Beale and J. G. Cabell, who testified as to an examination made by them of the scratches on the prisoner's hand; Captain Charles H. Epps, of the police, who, with Officer Logan S. Robins, arrested accused at Mrs. Tunstall's, in King and Queen county; and Messrs. Estis and Pierce, of King and Queen, who testified to the account given by prisoner as to how his hand was injured.

Yesterday's Proceedings.

The court met at a quarter to 10 o'clock, and soon after Judge Atkins took his seat upon the bench he said: "I have carefully examined the evidence with reference to the American Hotel note, and am of the opinion that the note has not been sufficiently identified for its admission. In questions like this, where it is sought to implicate the accused by evidence of the acts and accompanying declarations of the deceased which have not been communicated to the accused, the strictest proof of all the details should be required. In this instance that evidence has not been furnished, and I therefore sustain the objections made by the defense and exclude the paper."

Aaron Watkins.

Aaron Watkins (colored) was the first witness called. He said: I live in Richmond, on Main street. On the 13th of March I was living on Cherry street, about two hundred yards from the Hollywood monument. I was at home on the night of the 13th of March. I went home about half-past 10 o'clock, and went to bed about 11 o'clock. I went out doors before I went to bed. I heard some one hallow. I heard two squalls. The first one I did not understand. The second one said "O, Lord!" The noise came from the direction of the reservoir. I went back in the house and told my wife about it. I went out to see if I could hear anything more, and I went as far as the monument. The noise came from the direction of the reservoir, and I heard some dogs barking at the time.

"OH, LORD!"

To the defense the witness said: I think I was working on Church Hill that day (the 13th), doing some plastering. I heard some voices saying, "O, Lord!" That was all I heard. I don't know how far my house is from the reservoir. I was on the hill when I heard the cry. It was a starlight night. It was not very cold, but it was cold enough to sit by the fire. It could not have been over three minutes between the time I heard the first cry and the second one. I went up to the monument, and not seeing or hearing anything more, I went back to the house. I did not want to risk myself. The next day I went down to the store where my boss was. I don't know who I first told this to. I think it was the next Monday that I first spoke about it. I heard Saturday that some one had been found in the reservoir. I think it was Thursday night I heard the cry. I was at the store Friday night. I got paid off that night. I have been talking about the matter since I was summoned to court. Sergeant Hulse summoned me. I can't remember any one whom I talked to since I was summoned. I never gave my evidence before the Coroner.

THOUGHT SOME ONE WAS FIGHTING.

To the prosecution: I was down at the Police Court when the case was called, but did not give my testimony because the case was not called. From the noise I first heard I thought it was some one fighting. I went there for the purpose of helping any one I might see in distress. The dogs were barking in the same direction that I heard the noise.

THE OTHER SIDE.

The cross-questioning of the defence went to show that they had no faith in the witnesses; that if he heard any cries at all, he had no more reason to suspect that they came from the reservoir than any other direction; that he was too far away from the reservoir to hear cries, if any were uttered, and that he was uncertain of the night—whether Thursday or Friday—on which he heard the cries spoken of.

LONG OR SHORT MEMORY.

Judge Harrison: Did this sound that you heard seem like a male or female voice?

Witness: Like a female voice.

Colonel Aylett: What night was this?

Friday night.

Judge Crump: How do you know that it was Friday night?

Because I was paid off on Friday night. Mr. J. D. Carnall paid me. He paid me \$4 or \$5; paid about 7 o'clock Friday night.

Where were you between 7 o'clock and the time you went home?

Was at the store.

Did you take a drink mean while?

No, sir.

Who was there?

Mr. Carnall had gone home, but his brother Argyle was there.

Did you go off home with anybody?

No, sir.

Mr. Pollard: Do you remember saying that it was Thursday night?

I do not.

Have you a long or short memory?

Is good or bad?

I don't know. I might call it long and you might call it short.

And you didn't say it was Thursday?

I did not.

What were you doing Thursday night?

I don't know.

Am I a resident of the city and an employee of the jail. I saw prisoner as the jail on the 20th of March, when

I examined his hand; was directed by the Police Justice, who has the right to command my services, to make the examination.

Dr. J. G. Cabell accompanied me, and assisted in the examination and made a memorandum. We found five marks or wounds on his right hand; unblemished or pitted wounds, such as would be made by the removal of a varicose vein.

Mr. Meredith: Were they long scratches or gouges?

They were circular.

Mr. Pollard: He has not said that they were "scratches," Mr. Meredith.

Mr. Meredith: Did I use that word. Well, call them wounds.

Mr. Meredith: By what means could they have been made?

Well, they looked like they had been made by a crotchet, an instrument resembling a spoon, except smaller in size.

Dr. Cabell has the record made at the time of the examination.

CURETTE-LIKE.

Here a curette (or rather ear-spoon) was shown by Dr. Beale and passed to the jury.

Mr. Meredith: Were the wounds anything like they were made by briars or splinters?

Not at all.

Were they of such nature as might have been made by finger-nails?

I think so.

FIVE WOUNDS.

Have you any diagram of the wounds?

No, Judge Crump: We saw five wounds. Used a magnifying glass. New cuticle had formed on two of the wounds; on others it had begun to form.

Dr. J. G. Cabell.

I reside in the city of Richmond.

On March 20th I went down to the city jail at the request of Dr. Beale and the Police Justice. No curiosity carried me, I can assure you.

Mr. Cluverius was brought up-stairs to us. I would not be able to identify him here by the little I saw of him there.

Witness described the wounds substantially as Dr. Beale had done. One on the left hand. They were nearly circular; two of them were pressed, or pitted, and they were near about one quarter to one third of an inch in diameter.

BY WHAT MADE.

Colonel Aylett: By what might they have been made?

Dr. Cabell enumerated many things by which they might have been made, ending with "the finger nails."

To Judge Crump: I did not think it necessary to take measurements. This morning, upon his recollection and mine, we concluded they were from one fourth to one third of an inch in diameter—the largest one, I think, was not more than the first one of Lillian's death.

MEMORANDUM.

Witness here produced and read his memorandum of observations made at the time, as follows:

The prisoner was examined March 20th at 14 o'clock P. M., at the city jail, by Dr. Beale and myself. We found three marks showing effused blood on the back of right hand between the index and middle finger, one between third and fourth finger, one on little finger, one on left hand between thumb and forefinger, and one or two on right hand, indented but healed over.

IMPORTANT QUESTIONS.

Mr. Juror Harrison: What was the probable time of the infliction of these wounds?

I can't say the number of days.

Did the cuticle seem to be new?

It seemed that it had been healed a few days.

In a person whose blood is in good condition, how long would it take to heal?

I suppose a week or ten days.

Captain Charles H. Epps.

This gentleman, a captain of police, described the arrest of prisoner at the residence of Mrs. Tunstall, in King and Queen county, March 18th. His statement in chief has already been published, and he yesterday gave only a few more details.

Said prisoner to him: "I was in Richmond, but I never saw her. I was in Richmond, but I never saw her. I was in Richmond, but I never saw her."

Mr. Tunstall remarked: "I got a letter from Lillian dated March 14th." (Day after her death.)

Captain Epps and Officer Robins reluctantly accepted an invitation to supper. The prisoner ate he was not through supper. "The prisoner ate very little indeed; only sipped his coffee," said the witness.

LETTER OF THE 14TH.

After supper Mrs. Tunstall produced a letter from Lillian dated March 14th. It gave an account of Lillian's proposed trip to Old Point.

Captain Epps noticed his watch-chain when he first got there (down-stairs); also noticed it up-stairs, and called Mr. Robins' attention to it by a sign; Mr. Robins' attention to it by a sign; Mr. Robins' attention to it by a sign.

Change of clothes.

After supper the officers allowed prisoner to go up-stairs to dress for the trip. Coming down again he whispered to his aunt, Mrs. Tunstall, who soon afterwards said: "I think Lillian dated her letter wrong," and then she asked, "Mr. Robins, don't you think Lillian committed suicide?"

FORTHUGHT.

After the arrest Cluverius said to Mrs. Tunstall that it would be necessary for her to come to Richmond. She said that she didn't think she could; her health was so bad. Then he said, "It will be necessary for you to give Dr. Hland a power of attorney to sign any paper I may need," and she said that that was all right.

THE HAT BUSINESS.

When the officers were ready to leave and prisoner had kissed his aunt goodbye he started off without his hat. His slouch hat was handed to him, but he would not take it. Said that it had a hole in it. Took his brother's hat from his brother's head.

HIS ALIBI.

Going off from Mrs. Tunstall's to King and Queen Courthouse, where they spent the night, Captain Epps asked, "When you were in Richmond what friends were you with?" He said: "It is easy enough to prove where I was. Everywhere I went I saw people who knew me. I no more saw her in Richmond (on the 13th) than did Mr. Oliver" (the deputy sheriff who accompanied the officers from Richmond).

At King and Queen Courthouse, said witness, while the prisoner was sitting near the fire again, for the third time, noticed the prisoner's watch-chain and the empty link hanging to it.

That night we took a drink and the prisoner smoked a cigar.

Before he retired that night prisoner knelt to prayer.

Wrote some letters there, and spoke of writing to Colonel Aylett, but said he could do so from Richmond just as well. On the way home (here) we all

again took a drink and prisoner smoked a cigar.

THE WARRANT.

When I read the warrant to him at Mrs. Tunstall's he asked who Mr. Robins was who had sworn it out. Told him he was a police-officer. He then called Mr. Robins in the house.

Mr. Robins said that no solid motive had actuated him in swearing out the warrant; that when he began his inquiries he had no idea it would lead in this direction. Prisoner said that he wanted to know so as to know what course to take to seek redress.

AT KING AND QUEEN COURTHOUSE.

Did the prisoner sleep that night?

Very little. I was awake all night, and I frequently heard him moving in bed. Once or twice he seemed to be on his hands and knees in bed.

THE CHAIN-CHAIN GONE.

At the Third station-house, when I searched him, I missed the chain link. Asked him where it was, and said that it was not; that he had given it to his brother. I told him that I knew better than that; that he had it on the night before. Subsequently told the prisoner that I knew that he had chain on the night before. He said, "No, why do you want it?" Told him I did. Said he would get it; that I should have it. Later when the prisoner and counsel were in witness' office at the Third station, prisoner's brother delivered up the chain and said, "I found it lying on the table" (at home).

Next morning going to the Police Court prisoner smoked a cigar, for I threw the stump out of the carriage-window.

MURDER OF WHOM?

Mr. Meredith: When you told him that you arrested him for murder did he ask you for the murder of whom?

He did not.

Going into the house he said to his folks, "This is an officer from Richmond come to arrest me."

They said, Ah!

There was no shriek; no excitement. The aunt and brother said, "Tommy did not see her."

When Mr. Robins came in prisoner said, "How is this. It is all a mistake."

Mr. Robins said that he had sworn out the warrant through no ill-will; that when he first commenced to work up the case he had no idea of where it would lead to. Cluverius spoke of employing Mr. Evans, Mr. Pollard, and Colonel Aylett as his counsel, and that very night put his brother on a horse to go after Mr. Pollard or Mr. Evans.

SAW IT IN TUESDAY'S PAPERS.

I recollect that Mr. Robins asked him when he heard of it. Said that his Cousin Bagby had sent them Tuesday's paper and they got it Wednesday, and that was the first news of Lillian's death.

THE SHORT CHAIN CHAIN.

I saw the short chain down-stairs; I saw it up-stairs, where he changed some of his clothes; I saw it at King and Queen Courthouse. I looked at his watch-chain because I knew of the finding of the key at the reservoir.

Up-stairs at Mrs. Tunstall's by a sign I called Mr. Robins' attention to the short link on his chain, to which there was no key or charm attached. The short chain was empty. He had no opportunity to put the chain on the table.

HE KISSED HIS AUNT.

Leaving Mrs. Tunstall's he kissed his aunt (who gave him a \$20 gold-piece), and started off without a hat. Two or three of us remarked, "You are going off without your hat."

After some talk he took the hat off his brother's head and put it on; said that his own hat had a hole in it. His hat looked like a new one. I saw no hole in it. He put on a reversible overcoat, with the gray side out, and so wore it to Richmond; that is what I think.

THE HANDS.

He told me that it was easy enough for him to prove where he was; that he went nowhere but what he found people who knew him; that was on the night of March the 18th, when we were talking. Coming up to Richmond, he hoped the Court would adjourn until Monday morning.

Mr. Evans said they would make no objection to going on with the examination of these witnesses, but that done, he hoped the Court would adjourn until Monday morning.

Judge Crump (of prisoner's counsel) intimated to his Honor that the preparation of the bills of exception was a matter that could in the mean time be forwarded, and that therefore no time would be really lost.

The Court said counsel could examine the two witnesses named, and then he would adjourn court until Monday morning.

Here one or two of the jurors, including Mr. Howell, stood up and whispered over the bench Judge Atkins that they were very anxious to get through with the case; that they had rather sit in court until 12 o'clock at night and be the sooner done with it.

They evidently looked with ill-favor upon the proposed early adjournment for the day.

Judge Atkins said briefly that the request of counsel was reasonable, and that he thought the resting spell would not lengthen the case, but the contrary.

Hereupon the jury sat down, not particularly well pleased.

They are all probably getting sick enough of their job. But a more patient and attentive dozen men never sat in the Hastings Court jury-box.

Mr. James Estis.

James Estis was next called. He said: I live in King and Queen about five miles from Centerville. I saw Cluverius on Saturday before the 14th of March. He was in Thomas Mulby's store. I don't remember who was present there. I don't recollect of any conversation the prisoner and except that with his father. I recollect on one occasion he (the prisoner) came in the store and remarked, "It is a cool day." His father told him he was looking badly. I don't know what answer he made to his father. I recollect of his father asking him how he got the scar on his hand. His reply was he hurt it getting on the train; that his watch-guard hung against the railing, and he threw his hand up to catch himself.

THE RAILING.

To defend the witness said: I don't recollect whether he said rail railing or wood railing. I was a few feet from the prisoner. I was sitting on the counter, leaning against the show-case. I did not hear him (the prisoner) say anything about coming from Richmond that morning.

Mr. Pollard closely questioned the prisoner about voting-places, voting districts, and where the witness voted.

Mr. Meredith asked if Mr. Pollard was going into politics, and the Court intimated to Mr. Pollard that he was wasting time.

Mr. Edward Pierce.

I live below Centerville, in King and Queen county.

Mr. Meredith: Do you know the prisoner?

Yes.

When did you see him last?

The last time I saw him was the second Saturday before March, in Mr. Martin's store at Centerville; I also saw him in Mulby & Guthrie's store.

Did you, or not, hear a conversation between the prisoner and his father?

Yes, sir; I was sitting on the coun-

ter in Mulby & Guthrie's store, when he came in. His father was in the store at the time, and asked him if he got to Richmond in time to see Speaker Polard, and he replied that he had not seen him since the evening before.

Did his father ask him about his hand?

His father asked him how he hurt his hand, and he (prisoner) said that he hung his watch-chain in it that morning when he went to get on the train, and that was how he scratched it.

Did he, or not, say anything about feeling badly?

He said he was not feeling very well, and that he was going home.

To Mr. Pollard: No, sir; he did not say what business he had with you (Pollard) in Richmond; did not mention what it was; said he had not seen you before the evening before.

Where were you when you heard the conversation?

I was in the store a few feet from him and his father.

THE STORE.

What is the size of the store?

I never measured it, but judge from its appearance that it is about 18x32 feet.

Who was present at the time?

I do not remember. His father was in a chair near the stove.

Was that the first time Mr. Cluverius met his father that day?

I do not know. I saw him (Cluverius) three times during the day.

Did they shake hands?

If they did I did not see them.

Did you hear his father say anything about his looking badly?

I do not remember his saying anything about it.

Which of his hands had the scratches on it?

I could not say which.

Did you not tell some one that you thought they were on his left hand?

I don't think I said it was the left hand.

WHICH HAND.

Look at that gentleman behind you (Mr. Minter) and see if you recognize him.

Turning his head, looking at Mr. Minter: I think I do.

Did you tell him that it was the left hand?

I don't think I did.

Mr. Evans: Did you tell Mr. Willie Courtney that his father shook hands with him when he was in the store?

I don't think I did.

Mr. Meredith: Turn around and see if that is not the gentleman?

Looking at Mr. Minter: I think it is. He looks like him; he was in a top-buggy with Willie Cluverius when I saw him.

The prisoner's brother?

Yes, sir.

TORN-NOTE REHEARING.

Mr. Meredith: I desire to make a motion that your Honor will rehear us on the admissibility of the note, and ask that we be heard this [yesterday] afternoon.

Judge Atkins consented to grant a rehearing, but put it off until Monday morning.

The court then adjourned to meet tomorrow at half-past 9 A. M.

THE POETRY PRODUCED IN COURT.

The following is the piece of poetry spoken of by Captain Epps as having been found in the pocket-book of Cluverius when he was brought to Richmond under arrest. It is in newspaper print.

ALL FOR THE BEST.

(In pencil—"I believe this is true," and after the word "true" an initial, I may write "or an 'M.' It is very faintly written.)

ALL for the best! be sanguine and cheerful. Trouble and sorrow are friends in disguise. Nothing but folly goes faithless and fearful. Courage forever is happy and wise!

ALL for the best!—If a man would but know it. Providence works us all to the best: This is no dream of the poet or poet. Have faith, and all will be the best!

ALL for the best! Set thine own standard. Soldier of sadness, or pilgrim of love. Who to the shores of despair may have wandered. A way-worn swallow or heart-stricken dove.

ALL for the best! Be a man, but confiding. Providence tends a man to the best. And the frail bark of his creature's guiding. Weary the best!

ALL for the best! Then living thy way forward. Meet all your fears and foes in the van. And in the midst of your dangers or errors. "Thine is a child, while you strive like a man."

ALL for the best!—Unbiased, unbounded! Providence reigns from the east to the west. And by both wisdom and mercy surrounded. Hope, and be happy that—All's for the best!

THE LETTERS.

Counsel for defence have had access to all the letters found in Lillian's trunk. They may or may not contain evidence as to evidence quite a number that have not been offered by the prosecution, who have contended themselves with presenting all the writings of the prisoner, and nothing else.

It is understood that there are a number of letters from an elderly gentleman, who wished Lillian to marry him, and who wrote like he was much in love with her.

Mozart